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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,405	02/27/2002	Hidefumi Adachi	381AS/50989	7380
7590	12/02/2003		EXAMINER	
Crowell & Moring LLP The Evenson, McKeown, Edwards & Lenahan Intellectual Property Law Gr. 1001 Pennsylvania Avenue, N.W. Washington, DC 20004-2595			TO, TUAN C	
			ART UNIT	PAPER NUMBER
			3663	
DATE MAILED: 12/02/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/083,405	ADACHI, HIDEFUMI
<b>Examiner</b>	<b>Art Unit</b>	
	Tuan C To	3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

## **Disposition of Claims**

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) 2,3,5,6,9-13 and 21 is/are allowed.  
6)  Claim(s) 1,4,7,8 and 14-20 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 February 2002 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ . 6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 7, 8, and 14-20 are rejected under 35 U.S.C. 102(a) as being unpatentable by Richardson et al. (US 6081762A).

Claims 1, 7, 8, and 14-20: Richardson et al disclose another adaptive cruise control apparatus comprising: means for sensing a speed of the vehicle (see abstract), means for detecting distance between the vehicle and the preceding vehicle (see Figure 1), means for accelerating/decelerating the first-mentioned vehicle (see column 1, lines 63-67; column 2, lines 1-15), means for detecting traveling environment. When said distance is greater than a set value, cruise speed is maintained. When said distance is less than the set value, the distance is maintained at a predetermined value (see column 2, lines 66 and 67; column 3, lines 1-19), canceling the ACC terminating

immediately after the cancellation of the ACC, cruise speed is selected depending on the traveling environment (see column 2, lines 53-65).

Claims 7 and 8: As taught in the Richardson et al.'s, the ACC is switched on after the ACC is cancelled. It should be noted that the ACC has been cancelled after the driver operates the brake.

Claim 4 is rejected under 35 U.S.C. 102(a) as being unpatentable by Kinoshita et al. (US 6185499B1).

The reference to Kinoshita et al. listed in the IDS is considered as it discloses the limitations of claim 4. Kinoshita et al. discloses a typical cruise control system for motor vehicle to control the speed of the vehicle. As described in Kinoshita et al., if vehicle speed  $V_0$  is smaller than  $V_1$  the vehicle speed  $V_1$  is maintained at speed  $V_0$  by reducing the opening angle of the throttle valve 3.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Allowable Subject Matter***

Claims 2, 3, 5, 6, 9-13, and 21 are set in a condition for allowance because the examiner has found none of the references teaches or fairly suggests the limitations in said claims.

***Response to Amendment***

This office action is a response to the applicant's amendment and arguments filed on 08/21/2003, from which the applicant argued that Richardson does not disclose the features of the claimed invention that the ACC is cancelled due to a predetermined operation of the driver and the ACC is resumed to control the vehicle under a new cruise speed set on the basis of a traveling environment at a time when the driver stops the operation by which the ACC is cancelled. The argument is not persuasive because Richardson et al. teach the cruise control system for a motor vehicle, wherein said cruise control system is switched to cruise mode to maintain the cruising speed when there is no obstacles in front of the pathway. In addition Richardson et al. teach the following: "If the distance sensor 14 detects a slower moving vehicle in front of the equipped vehicle, then the cruise control module will go into follow mode in which it will maintain a set time based distance or headway with the target vehicle in front of the equipped vehicle". Thus, the cruise control speed is controlled based on the traveling environment at a time when the driver stops the operation by which the ACC is cancelled. For the reason discussed above, claims 1, 14-20 stand rejected.

Claims 7 and 8 are now rejected because Richardson et al. read on the limitations recited in those claims. Claims 9-13 are allowable as indicated above.

Claim 4 is now rejected based on the reference of Kinoshita et al.

***Conclusion***

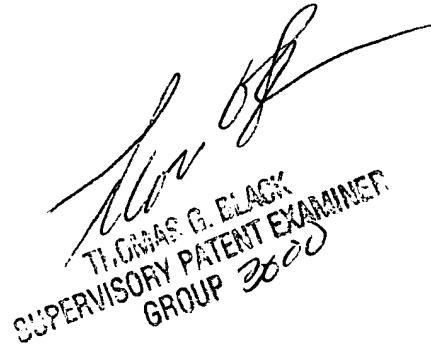
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (703) 308-6273. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

/tc

November 24, 2003



Thomas G. Black  
SUPERVISORY PATENT EXAMINER  
GROUP 3600